



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,112	09/24/2003	Thomas J. Wheeler	OLYM/0095	8153

7590 06/05/2006

MOSER, PATTERSON & SHERIDAN, L.L.P.
Suite 1500
3040 Post Oak Blvd.
Houston, TX 77056

EXAMINER

GUADALUPE, YARITZA

ART UNIT	PAPER NUMBER
----------	--------------

2859

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/670,112	Applicant(s) WHEELER ET AL.	
	Examiner Yaritza Guadalupe McCall	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10,12-15,20,21,33-38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 2,4-10,12-15,20,21,33,34,38 and 40 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to the Request for reconsideration filed March 13, 2006

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (US Pub. No. 2004/0221462) in view of Chen (US 6,763,598) and further in view of Ohtomo et al. (US 5,907,907).

In regards to claim 1, Liao discloses a laser level assembly comprising a base (20) having a laser (40) coupled thereto; at least one attachment means (magnet 27) for attaching the laser level to a surface (See paragraph [0023]), an adjustment assembly (41, 45), wherein the adjustment assembly provides a micro adjustment of at least a portion of the laser level relative to the surface, and a lens (43).

Liao does not disclose a lens assembly and an auxiliary base as stated in claim 1.

With respect to the lens assembly in claim 1: Chen discloses a laser level device comprising a lens assembly (5) movable between at least two positions, wherein each position of the lens assembly selectively aligns and positions a different one of at least two lenses (52) with respect to the laser in order to increase the versatility of the device by providing a projected reference dot, horizontal reference line or vertical reference line as desired by the user. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the lens arrangement (43) disclosed by Liao with a lens assembly as taught by Chen in order to increase the versatility of the device by providing a projected reference dot, horizontal reference line or vertical reference line as desired by the user.

In regards to the auxiliary base as stated in claim 1 : Ohtomo et al. teaches laser leveling system including an auxiliary base (85) that is attached to the base (10) of a laser device and which provide leveling adjustments (by means of a leveling screw 86) in order to increase the versatility of the device by making it adaptable to be used in horizontal and vertical surfaces (See Columns 2 and 3, lines 67 ad 1 – 8 respectively). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add an auxiliary base as taught by Ohtomo et al. to the device disclosed by Liao and Chen in order to increase the versatility of the device by making it adaptable to be used in horizontal and vertical surfaces (See Columns 2 and 3, lines 67 ad 1 – 8 respectively).

Allowable Subject Matter

3. Claims 2, 4 – 10, 12 – 15, 20 - 21, 33 – 34, 38 and 40 are allowed.

Response to Arguments

4. Applicant's arguments, see remarks, filed March 13, 2006, with respect to the rejection(s) of claim(s) 1 under USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Liao, Chen and Ohtomo et al.

Conclusion

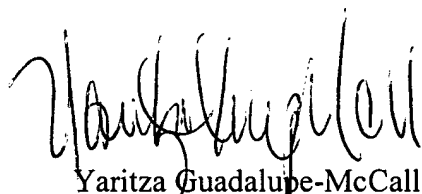
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2859

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YGM
May 26, 2006
Art Unit 2859



Yaritza Guadalupe-McCall
Primary Examiner